

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JOSEPH ROBINSON,

Plaintiff,

v.

KENNETH BRYANT,

Defendant.

No. 2:20-CV-1189-JAM-DMC

**ORDER**

Plaintiff, who is proceeding pro se, brings this civil action. Pending before the Court is plaintiff's complaint (ECF No. 1).

The Court is required to screen complaints brought by litigants who have been granted leave to proceed in forma pauperis. See 28 U.S.C. § 1915(e)(2). Under this screening provision, the Court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915(e)(2)(A), (B). Moreover, pursuant to Federal Rule of Civil Procedure 12(h)(3), this Court must dismiss an action if the Court determines that it lacks subject matter jurisdiction. Because plaintiff has been granted leave to proceed in forma pauperis, the court will screen the complaint pursuant to § 1915(e)(2). Pursuant to Rule 12(h)(3), the court will also consider as a threshold matter whether it has subject-matter jurisdiction.

1 Plaintiff names Butte County Deputy Sheriff Kenneth Bryant as the sole  
2 defendant. Plaintiff claims defendant violated his Fourth Amendment rights by arresting him  
3 without probable cause. Plaintiff alleges he was arrested by Bryant on an improper warrant that  
4 was based on a false declaration provided by Charles Duran, presumably another Butte County  
5 Deputy Sheriff. Plaintiff states Duran and Bryant conspired to cause plaintiff's arrest "upon the  
6 false premise of sending in the mail to Duran a 'letter disguised as a court document' that was a  
7 real court documents and which both Duran and Bryant knew or should have known was a real  
8 court document." According to plaintiff, he was prosecuted for violation of California Penal  
9 Code § 166(a)(4), which proscribes contempt of court. Plaintiff states that, years later, the Butte  
10 County District Attorney's Office dismissed the charges against plaintiff in the interest of justice  
11 after discovering that the document in question was, in fact, a court document.

12 The Court concludes that it has subject matter jurisdiction and that the complaint is  
13 appropriate for service by the United States Marshal without pre-payment of costs. If plaintiff  
14 desires service of process by the United States Marshal without pre-payment of costs, plaintiff  
15 must comply with the requirements outlined below. Plaintiff is warned that failure to comply  
16 with this order, or otherwise effect service pursuant to Federal Rule of Civil Procedure 4, may  
17 result in dismissal of the action for lack of prosecution and failure to comply with court rules and  
18 orders. See Local Rule 110.

19 Accordingly, IT IS HEREBY ORDERED that:

20 1. The Clerk of the Court shall issue a summons in a civil case, the  
21 undersigned's new case documents, and an order setting this matter for an initial scheduling  
22 conference;

23 2. The Clerk of the Court shall send plaintiff the summons, 1 USM-285  
24 forms, and a copy of the complaint;

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3. Within 15 days from the date of this order, plaintiff shall complete the summons by indicating the addresses of the named defendants and shall submit to the United States Marshal at the address indicated below the following documents:

- a. The completed summons;
- b. One completed USM-285 form for each named defendant;
- c. 2 copies of the complaint; and
- d. 1 copy of the court's initial scheduling conference order issued herewith;

4. Within 20 days of the date of this order, plaintiff shall file a notice indicating that the documents described above have been submitted to the United States Marshal, or a notice that plaintiff intends to serve the summons and complaint without assistance from the United States Marshal;

5. If plaintiff seeks the assistance of the United States Marshal, the United States Marshal is directed to serve all process without pre-payment of costs not later than 60 days from the date of this order, such service of process to be completed by serving a copy of the summons, complaint, and initial scheduling conference order on the defendants at the addresses provided by plaintiff; and

6. The Clerk of the Court is directed to serve a copy of this order on the United States Marshal at 501 "I" Street, Sacramento, CA, 95814.

Dated: June 25, 2020



DENNIS M. COTA  
UNITED STATES MAGISTRATE JUDGE